

JCGAAPALC

Conference

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 SARAH PALIN,

4 Plaintiff,

5 v.

17 CV 4853 (JSR)

6 THE NEW YORK TIMES COMPANY,

7 Defendant.

8 -----x

New York, N.Y.
December 16, 2019
11:00 a.m.

10 Before:

11 HON. JED S. RAKOFF,

12 District Judge

13 APPEARANCES

14 BAJO CUVA COHEN TURKEL

15 Attorneys for Plaintiff Palin

16 BY: SHANE B. VOGT

17 LEVINE SULLIVAN KOCH & SCHULZ, LLP (NYC)

Attorneys for Defendant NY Times

18 BY: JAY BROWN

JCGAAPALC

Conference

1 (Case called; Appearances noted)

2 THE COURT: All right. This is just a scheduling
3 conference of this case. This is a jury trial?

4 MR. VOGT: Yes, your Honor.

5 THE COURT: Does anyone expect any additional parties?

6 MR. VOGT: We do not, your Honor.

7 MR. BROWN: No, for the defendants, your Honor.

8 THE COURT: Amended pleadings may be filed without
9 leave of Court. This is really just at this stage pretty much
10 theoretical but by January 7th first request for the production
11 of documents. This supersedes the earlier case management plan
12 that we had. First request for production of documents January
13 7th. Very limited interrogatories and I permitted under Local
14 Rule 33.3(A) January 7.

15 Does either side anticipate experts?

16 MR. VOGT: We could have an expert or two, your Honor.

17 THE COURT: OK. An expert on what?

18 MR. VOGT: We might have an expert in the field of
19 reputational damage online, your Honor. And breach in
20 dissemination of defamatory content.

21 THE COURT: How about the defense's side?

22 MR. BROWN: Your Honor, at this time we do not
23 anticipate affirmative experts.

24 THE COURT: So, plaintiff's experts disclosures must
25 be filed by February 28 and defendant's responses by

JCGAAPALC

Conference

1 March 20th.

2 Now, how many fact depositions does plaintiff
3 anticipate approximately, just a ballpark?

4 MR. VOGT: Approximately, five, your Honor.

5 THE COURT: OK. And defense counsel?

6 MR. BROWN: Currently, we do not anticipate more than
7 five, your Honor.

8 THE COURT: OK. So, all depositions including expert
9 depositions to be completed by April 5. Requests to be filed
10 by March 12. All discovery to be completed by April 12th.
11 Post discovery summary judgment moving papers April 26.

12 COURTROOM DEPUTY: That's a Sunday.

13 THE COURT: I'm looking at the wrong year. Let's go
14 back.

15 All depositions to be concluded by April 6th; requests
16 to admit to be filed by March 12th; all discovery to be
17 completed by April 13th; moving papers on summary judgment,
18 April 27th; answering papers May 11th; reply papers, May 18th;
19 and we'll have a final pretrial conference, as well as oral
20 argument on summary judgment motions.

21 Let's look at May 25th.

22 COURTROOM DEPUTY: Courthouse closed for Memorial Day.

23 THE COURT: All right. May 26 at 11 a.m.

24 So, I'll sign the case management plan. I'll give to
25 it to my classroom deputy to docket and it'll be therefore

JCGAAPALC

Conference

1 available to both sides.

2 Now, all those matters may be disposed of before
3 trial. I think we ought to set a trial date after trial if
4 this case does go to trial. How long does plaintiff's counsel
5 anticipate the trial will take?

6 MR. VOGT: Four to five days, your Honor.

7 THE COURT: And defense counsel?

8 MR. BROWN: In terms of total time, your Honor, we
9 believe that's correct.

10 THE COURT: OK. So, let's look at how about beginning
11 of June 22.

12 MR. BROWN: Fine with defendants, your Honor.

13 MR. VOGT: That's fine with us, your Honor.

14 THE COURT: OK. All right. Very good. Anything else
15 we need to take up today?

16 MR. VOGT: Your Honor, I just wanted to know from the
17 Court whether we should go ahead and file the amended complaint
18 that was originally part of the motion that we filed.

19 THE COURT: Yes, you have until January 7th to do
20 that.

21 MR. VOGT: Thank you, your Honor.

22 THE COURT: The sooner you can do it the better and
23 either file their answer motion.

24 MR. VOGT: Thank you.

25 MR. BROWN: Your Honor, in that regard, I am happy to

JCGAAPALC

Conference

1 take this up pursuant to your individual practices by phone
2 call. But in addition to answering the complaint, the
3 defendants anticipate filing a motion for partial summary
4 judgment on the pleadings with respect to the disgorgement
5 claim. I've conferred with plaintiff's counsel about this.
6 You may remember that that subject was briefed and argued but
7 your Honor did not reach that issue given the other basis on
8 which you rule and I didn't know if you wanted to talk briefly
9 about timing and procedure for that now.

10 THE COURT: Well, sure.

11 MR. BROWN: If I may, your Honor?

12 THE COURT: Yes.

13 MR. BROWN: Subject to your preferences, we would be
14 inclined at the time we filed the answer to file the motion but
15 incorporating by reference our prior briefing, it's possible
16 there's an intervening case or two that we should cite as
17 supplemental authority. But we don't believe that needs to be
18 re-briefed. Plaintiffs could file a response incorporating
19 their prior briefing or supplementing it if they would like but
20 I think that issue could be tied up rather promptly.

21 MR. VOGT: We agree with that.

22 THE COURT: All right. Of course I totally and
23 completely remember your original joint briefing in this matter
24 but I'll go back and look at it.

25 All right. So, at the time that you would answer, put

JCGAAPALC

Conference

1 in what you've just talked about a brief summary judgment
2 motion incorporating the briefing in your cases and how long
3 does plaintiff's counsel want to put in his similarly expedited
4 response?

5 MR. VOGT: May I ask a question of defense counsel?

6 THE COURT: Yes.

7 (Pause)

8 MR. VOGT: I am trying to think about with the
9 holidays coming up when the best time is.

10 THE COURT: Yes.

11 MR. VOGT: If we could have until January 10?

12 THE COURT: Sure.

13 MR. VOGT: That will be --

14 THE COURT: So, actually, when are you planning to
15 file your amended complaint?

16 MR. VOGT: We can file it this week.

17 THE COURT: OK. So, amended complaint then can be
18 filed by December 20.

19 And answer, when do you want to do your answer/summary
20 judgment?

21 MR. BROWN: We could do it as early as the same day,
22 your Honor. We're prepared for that.

23 THE COURT: You won't get any complaints from me.
24 We'll give you the whole weekend, December 23.

25 MR. BROWN: Thank you, your Honor.

JCGAAPALC

Conference

1 THE COURT: And January 10 for the answering papers
2 and January 17 for any reply papers. OK? And I'll let you
3 know whether I need oral argument. Otherwise, I'll just decide
4 it on the papers.

5 Anything else?

6 MR. VOGT: Not from the plaintiff, your Honor.

7 MR. BROWN: Not from the defendants, your Honor.

8 THE COURT: Very good. Thanks so much.

9 (Adjourned)

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25